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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/804,093

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Shigeru Maruyama

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EXAMINER

JACKSON, JAKIEDA R

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2626

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/804,093	<b>Applicant(s)</b> MARUYAMA, SHIGERU	
	<b>Examiner</b> Jakieda R. Jackson	<b>Art Unit</b> 2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 April 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                 | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 14 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 14 is drawn to a "program" *per se* as recited in the preamble and as such is/are non-statutory subject matter. See MPEP § 2106.IV.B.1.a. Data structures not claimed as embodied in computer readable media are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention, which permit the data structure's functionality to be realized. In contrast, a claimed computer readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory. Similarly, computer programs claimed as computer listings *per se*, i.e., the descriptions or expressions of the programs are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any

structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. **Claims 1-5 and 9-12 and 14-15** are rejected under 35 U.S.C. 102(a) as being anticipated by Pathuel (EP 1176493 A2).

Regarding **claims 1, 9 and 14**, Pathuel discloses an unauthorized use prevention apparatus, method and program, hereinafter referenced as an apparatus included in an information processing device, comprising:

a speech feature memory storing identifying speech feature data previously obtained from voice of an authorized user (recording the orally reproduction of the sequence; abstract with column 2, paragraph 0011 and columns 8-9, paragraph 0061-0065);

a password generator for generating a password which is a string of arbitrary characters (generating a sequence of recognizable codes; abstract with column 2, paragraph 0011 and column 3, paragraph 0020 and column 5, paragraph 0034-0036 with column 7, paragraph 0050 and columns 8-9, paragraph 0061-0065);

a password notifying section for notifying a present user of the generated password (provided with a code; column 2, paragraph 0012 and columns 8-9, paragraph 0061-0065);

a speech feature extractor for extracting speech feature data from voice of the present user to produce input speech feature data (prompting the user to orally generate; abstract with column 2, paragraph 0011 and column 5, paragraph 0034-0036 and columns 8-9, paragraph 0061-0065);

a speech feature comparator for comparing the input speech feature data to the identifying speech feature data to produce a speech feature comparison result (performing a speech and speaker analysis; abstract with column 2, paragraph 0011 and column 5, paragraph 0034-0036 and columns 8-9, paragraph 0061-0065);

a password comparator for comparing an input password obtained from the voice of the present user to the generated password to produce a password comparison result (performing a speech and speaker analysis; abstract with column 2, paragraph 0011 and column 5, paragraph 0034-0036 and columns 8-9, paragraph 0061-0065);  
and

a controller for determining whether to inhibit the use of the information processing device, depending on the speech feature comparison result and the password comparison result (performing a speech and speaker analysis; abstract with column 2, paragraph 0011 and column 3, paragraph 0022 with column 5, paragraph 0034-0036 and columns 8-9, paragraph 0061-0065).

Regarding **claims 2, 10 and 15**, Pathuel discloses an apparatus wherein the generated password is renewed each time the information processing device is put to use (generated immediately after request; column 2, paragraph 0014 and column 3, paragraph 0023).

Regarding **claims 3 and 11**, Pathuel discloses an apparatus wherein the password notifying section comprises a display section for displaying the generated password on screen so as to prompt the present user to sound out the generated password (prompting the user to orally generate; abstract and column 3, paragraph 0020 with column 5, paragraph 0034-0036).

Regarding **claims 4 and 12**, Pathuel discloses an apparatus wherein the password notifying section comprises a speech processor for sounding out the generated password through a speaker so as to prompt the present user to sound out the generated password (prompting the user to orally generate; abstract and column 3, paragraph 0020 with column 5, paragraph 0034-0036).

Regarding **claim 5**, Pathuel discloses an apparatus wherein the information processing device is included in a communication device capable of voice communication (computer; column 3, paragraph 0021 and column 5, paragraph 0034-0036).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 6 and 7** are rejected under 35 U.S.C. 103(a) as being unpatentable over Pathuel in view of Hongwei (USPN 6,904,526).

Regarding **claim 6**, Pathuel discloses an authorized prevention apparatus, but does not specifically teach wherein the password generator generates a renewed password in response to a request operation of making a call.

Hongwei discloses an apparatus wherein the password generator generates a renewed password in response to a request operation of making a call (column 1, line 61 – column 2, line 5 with column 13, lines 61 – column 14, line 28), to verify the password.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Pathuel's apparatus wherein the password generator generates a renewed password in response to a request operation of making a call, as taught by Hongwei, for identification and access control (column 1, lines 4-18).

Regarding **claim 7**, Pathuel discloses an authorized prevention apparatus, but does not specifically teach wherein the password generator generates a renewed password in response to a request operation of making a call.

Hongwei discloses an apparatus wherein the password generator generates a renewed password in response to a request operation of making a call column 1, line 61 – column 2, line 5 with column 13, lines 61 – column 14, line 28), ), to verify the password.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Pathuel's apparatus wherein the password generator generates a renewed password in response to a request operation of making a call, as taught by Hongwei, for identification and access control (column 1, lines 4-18).

7. **Claims 8, 13 and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Pathuel in view of Heredia (USPN 5,911,777).

Regarding **claim 8, 13 and 16** Pathuel discloses an authorized prevention apparatus, but does not specifically teach an apparatus further comprising:

a database storing a plurality of entries, each of which includes address information accompanied with a password check flag,

wherein, when a request operation occurs, the controller searches the database for address information related to the request operation and, when the password check flag accompanying the address information found indicates that password check is needed, starts an unauthorized use preventing operation.

Heredia an apparatus comprising:



a database storing a plurality of entries, each of which includes address information accompanied with a password check flag (password flag; column 5, lines 17-22),

wherein, when a request operation occurs, the controller searches the database for address information (memory address) related to the request operation and, when the password check flag accompanying the address information found indicates that password check is needed, starts an unauthorized use preventing operation (column 5, lines 17-22), to provide a security system.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Pathuel's apparatus comprising a database storing a plurality of entries, each of which includes address information accompanied with a password check flag, wherein, when a request operation occurs, the controller searches the database for address information related to the request operation and, when the password check flag accompanying the address information found indicates that password check is needed, starts an unauthorized use preventing operation, as taught by Heredia, to provide a security system that will report unauthorized use (column 2, lines 21-24).

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jakieda R. Jackson whose telephone number is 571-

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272-7619. The examiner can normally be reached on Monday, Tuesday and Thursday 7:30 a.m. to 5:00p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached on 571-272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JRJ  
July 23, 2007



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SUPERVISORY PATENT EXAMINER  
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